

1. Publication was in the national interest.

Concealment by Exe

Deception " "

Refusal to respond to Congress.

Class. system

2. Ad hoc class. system

(not basis for criminal sanctions)
("National Defense Aristocracy" — or Clubs, Bill Profumo).
Memoirs; removal of docs for private use;

Gov is really saying, "Because doc is classified, it can't
be disclosed..."

3. Unprecedented use of Grand juries for investigation
after indictments.

(Gov just didn't have evidence when the
first indictment in LA.

Gov claims that under "retention" they can avoid
discussion of "national defense"

Response on hsr?

Message to hsr?

Herzstein: legal research
-ACLU

Can issues be raised?

Fan of new indictments?

Conspiracy to publish?
copying?

[Call CFR

Lynd: AHA



V V

Jan 4 - notice 1 day

Beniger - Jan 10 or Feb 10
3-5 months
now likely

Our case: May; or Aug-Sept.

"If does like this 'relate to national defense',
~~the~~ may other criminal prosecutions should
have taken place."

→ "national defense" requires
contemporaneity"

[But now recent books
aren't prosecuted either.]

On intent, you can claim that, grammatically,
intent isn't involved.

Argument: lack of intent w/out "retention"
had to do with depriving gov of use of docs;
delet is involved here is copying, which does
require intent.

7 7 7 7

1

[Why not require that "oaths" incorporate provisions (B) "provided info to be covered does not involve ~~the~~ evidence of criminal behavior, deception of Congress & public, violators of international law..."]

(B) in case one suspects info has above character, there is a process for referring info to a ~~the~~ body capable of acting on such evidence, not excluding Executive."

Otherwise, these "promises" that constitute part of class system are

- (1) Unenforceable (like restrictions covenants)
- (2) Unconstitutional
- (3) Should be illegal
- (4) are against interests of Congress
- (5) Have bad educational effect;
- ~~Aspects~~ (6) Violate Nuremberg Principles

Congress should specify language to be ~~be~~ signed by officials, to "educate" them to obligations.

[X]

(If my promise was binding on PP —
the promise was improper for Gov't act,
and for me to sign.)

"Unauthorized persons" should not
even cover (2) a member of Congress
(6)

Boudin: "More likely than not" (though
more likely than any other case) that
judge will allow the direct argument:
"The VN war was illegal."

But I can testify that, for X reasons,
I believed (+ intended) my act would help
the country: this would bring in some
evidence (under my intention).

[We can put issue of intent to the jury.]
[Will this help other cases? Justifiably?]

Can other witnesses testify to, say,
criminality?

- e.g. (1) Fulbright — told me some
docs confirmed his suspicions, other
info was new to him (extract of 34A)
said he had been deceived by CB. (Ball?)
(2) Falk — Taylor: told me certain
acts were illegal (though non-juristic.)

(3) Alex Johnson, McG B, Vane: had
signed docs brought by me.

(4) Unfriendly witnesses? McN?

Robert?

How big is Gov's case? How long?

Seiay; Robert; newsmen, agents,
to testify to admissions

Best, Butler; Rouen?

[Do we call Robert?

- Research assistant

(Zack; Schilling)

Zinn, Chomsky, Hagen: Russo

- ~~Don't~~ Go over papers, clippings (Dill?)
with secretary or helper:

file, analyze, select, summarize

- Go over past (1964-65?) press

- Check MIT members who has post bill...

- CFR: Study Group (s)

- Thomson: McG B lectures

- Foster - !

Research

1. What the truth is - related to deception
of how (How failure to disclose these
facts to
2. Test that disclosure ^{class. system} has never been
subject to criminal sanction.

[Show that Nixon Admin has
foregone prosecution in fact?]

Cagney

Kearns answer: What else?

[Hyp: If Cagney sets up repository,
with good guidelines for releasing
nearly everything ...

Encourage full disclosure

{ Golding, Hollnath

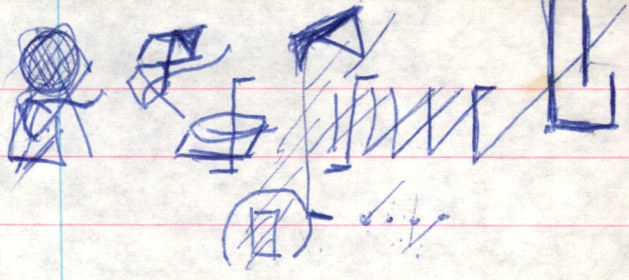
Reichman ?! Rostow; Roche

see Hilman ...

Once H research done, visit memoirists ...
(Kearns ?!)

Research

1. PP: relate ^{specific} truths in PP to falsehoods by Expe.
2. Referrals of Pres to give info to Congress
Fullbright
Dinwiddie?
Syrington
3. In academic libraries, documents available
4. Re classification system
 - Studies (Legal)
 - Otopka (Branch)
- 5. Security vs. 1st and 2nd rights in
Grand jury
Prisons
- 6.



Kangas:

1. Howell-Bandi
2. Privilege for Stanley ✓
3. CFR ✓
4. NYT ✓
5. Opening Statute



6. Ninth issues ✓

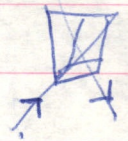
7. many

8. (Mansfield Amendment) ✓

9. Scholla, etc. ✓

H/OE

10.



Black 691-4279
72 861-5989
89 369-0841

Braun

Sigal (Brookings)

Osgood - SAIS / CFR

Leung CFR

Stein

Congressional

Excellence



Research:

Halperin

Gsa?

~~Boy~~

Brodie

Morgenstern?

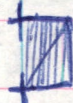
Hunter

Kolko

RAND Allen

Doug Scott

Ackland



Tom Hughes?

Falk

Chowdy

Zim

Schlesinger



War Crimes

If we are totally afraid of seeing our actions in Indochina as murderous and criminal, we will not allow ourselves to see them at all. The consequence of that is that we will perpetuate them.

To place great importance on avoiding and denying the perception that our actions are not merely "mistakes" but crimes leads to accepting a very blurred and distorted picture of what our actions and their human consequences ~~are~~ are; for (we know this, from glimpses that break through defenses) these actions cannot, in fact, be looked at very closely without appearing brutal, indefensible, culpable.

Thus, the argument for bringing charges of criminality out into the open is to break down perceptual defenses against seeing the process of war, and our part in it, clearly for what it is. The aim is to short-circuit barriers to perception and ~~action~~ discussion--~~what~~ of what we are doing to the people and countries of Indochina--that have been erected almost unconsciously to prevent just such charges or self-accusations. By raising such charges, at last, in ways that cannot simply be dismissed as hysterical leftist rhetoric--in courts, in Congress, in Establishment media--one may admit to widespread consciousness data which--in bearing upon such charges--is even more significantly relevant to choices of future policy in Indochina.

Moreover, to see some of these actions as criminal in a legal sense may be to cause people to confront the question of why they were once ~~regarded as~~ ~~prohibited~~ prohibited on the basis of treaties and agreements, even for wartime; and of how far we may have come in acceptance of practices once regarded as so abhorrent that all parties even in wartime could agree to reject them. The existence of prior laws dramatizes this aspect of movement in values and perceptions; and suggests the possibility of moving back.

Issues

Van Hise

- Explain why (or ignore) & on being
case on const. grounds.

- Is & on not being tried for revealing
"secrets" — or classified documents — to
public, or Congress or papers. (Which I did).

- Why not?

Because there is no law against that

- Congress has always rejected Official Secrets Act.

- Should there be an Official Secrets Act?

No. (not my problem, or case; would not
affect me retroactively).

- I am being tried under Espionage, & Theft;
I have not committed " " " " .

These laws should not be stretched & abused
to make the equivalent to the O.S.A. that
Congress has refused to pass.

Epre Order is not a law.

- Would I have violated law?

Yes — it would have been a bad law —
that only I am against then being a law.

- It would (have) conflicted with more
important laws: Const, UN Charter, etc. —
and human needs.

3 different issues:

- Have I violated the law?

This determines prison issue; prison
should be reserved for (a small subset of)
people who violate laws; not, i.e. people
who would have violated a law if it
existed.

- Should there be an O.S.A.?

- Would one be justified in violating a
law like this, like this, if one existed?

(Because on my notions — fact that I would
have been willing to violate Espionage, Theft, Laws —
if they applied — and OSA if it existed
And because on: should there be an OSA? Should laws be structured?

(Britain also have Espion. Act, do they not?)

Look at British class system - is it as
vague + arbitrary?

Discussion: - English O.S.A.

- No it works.

- No Congress has rejected.

[If there should be a OSA, there would be
sympathy for stretching law to get me, while
passing an O.S.A.

I had strong reason to believe this would
help US:

(a) info in docs, & my analysis

(b) professional experience: 9 years of RAND
in Gov.

(c) Nature of current
policy, practice.
Study of diversion

(to substitute for lost belief in the)

Rather than create criminal sanctions, Congress
should attack Esp. practice or severity.

Have argued "right to know"
duty to reveal
~~code~~

Political issues paper needed
Exec power
War
(even: 1st Amendment...)

Case

(See John Roche, New Leader, July 12, 1971)

Since McCarthy, Democrats have expected signs of "weakness" to lead, to the right: VCS, Armed Services (Stennis: McNamara), Alsop (LBJ per ~~fastlane~~ ^{Fastlane} ~~Moynihan~~ ^{Moynihan} - of being called "soft" by Alsop).

Hence, this "conf. advice" isn't written down — and is seldom made at all.

Publication of remaining "tough" views should have opposite, countervailing effect; making "softer" views sayable, written down, less more legitimate inside.

Nothing in my life has been wasted?

Vanhoff?

1958-64

Hap? Milpatric speech

1964-65

RAND (NIE's):

Herman Kahn (quote from me!)

early-1969? [Not NSSM-1] Check

Jackson Gutter!

FEP study...

WRL - Israeli - Bob Eaton - virgin...

dealing with people, not elite, "people who matter"...

Wallrich; Kren

[McCone / Holman / Clines : "No official secrets"]

R-290 ; R-266

(Honors Thesis ; Ph.D. thesis ;

D on C&C ; on WSEG study...

[Wallrich ; Krenke ; Keller ; Eaton
Kor ; Derek ; (Robert) ; Denig ;

Maureen?

EGC?

Van

Alpatic

Clines

Fullbright

Sharp

Jois Morton

Ridgeway?

Horsted?

1. New attitude on Negots volume:

(rational with Thai: Discouraging action.

How release.

("How will have to release

Reston press for Vols. [his call to me]

Monahan/Nedzi hearing consider: Negots
values

Moss

Muskin to press?

Hill?

My Mariner heard: Hg MC

ONR heard on leak

Kilman:
What royalties?

brief?

NSM-1? (HAK in Time)

Negots?

Clines/Fitzgerald/Kilman

Elksby + Otepha

Leonard - TR - ^{notions}

- Branch - expected to go to prison
- Playboy
- article on legal issues

Goodell / Sheriban: Playboy

Branch: Publish: Work Monthly on elaboration
law of class. system.

DE: hardin attitude
on publishing

legitimacy of war/crime

How to change system

"Betrayal"

Clean up system.

Kaw: - Anderson, Hersch
- Keaks in general
Rader of DOD?

Org pressures - System pressures (media clubs universities)

System without whistle-blowing

Media treatment; + effect on individuals.
CWB is DE seen as hero? bravery.

1. Incidents of which I had personal knowledge.

(1961 Report: RAND...; 554 Lys on '61; [Kass in '61];

(Thailand - Bay of Pigs]

On way to Laos. On Bundy
JTM on agent on '65;

reaction to
W. Bundy paper by JCS!

Tarkin only; (deliberations)

Conspiracy of '64; Grog in early '65 on bridge; "stovities."

Briefing of McN, Oct '66;

RANDJET to McN; McN to minutes: just before '66 elections. Impact of '64 election.

Stanis

4. Phase B as "functional" - to keep US in the war (avoid "quit, understate pessimism").
Will to crisis. Phenomenon: wisdom of leaving: JTM. Refused to study NVN.

5. Elections + Crises.

Still Ops + Crisis
(Tarkin!)

RT = Skel's end to Korea
(vs. Chiang, SU) ?

6. Read memoirs: Skel, Ball, Eden

Acheson; S. Adams; E. Hughes;

Vincent, Serrano, Davies

(Kathman, Tson, Shik, Rogan

Rosen - give paper -

(look at old roots: WWII)
RT as collection

7. List decisions (since '50)

9. "Central intent."

2. See McN wrt McN Studies: what to do with them.

(ask: Nov '61 memo; agent on '65; May '67 memo;

use HAK to see McN? Tied K, to get interviews?

8. Show US as driving the war.
But Stalwart Factors (vs. Tarkin)
VC traits (e.g. infiltration).

beliefs on reporting; on RT
(view of CBS view)

3. See Friedman; Stedman; Blum; Voge?; Miller?; Jan Moore; C; B; Dan D; Lake; Kay

When is the right time for a slave to
try to get free himself?

When is it urgent to be free?

Judges: send people to prison, without even
having been in a cage.

Against violence: get sent to
draft resisters.

Look at how judges are appointed:

May: more attention

candidates — make statements, to
show liberals

witnesses

no

Mancini

(unless) Have to do something by 11 in Cal., to
get on evening news.
from 2 May

Not May — for had news in Cal.

~~Mark:~~ Mark: Fall date — less politicization
in Cal : ^{I get} best; or I get more notes
from candidates, as they're asked:
so Cal is

Start in mid-May; hearings; trial June 10

As trial starts, get good statements
from candidates;

Espion. Act. vs. someone who tries to act
secretly — not someone who tried to inform public

9 July end of August — mid-Sept

Gordell a judgement
what does Gordell want?



1. What of distribution group — must & testify?

2. What do

What will you say is "rational"

Take what ~~excluded~~ How has left out of
GPO version — "most sensitive data" —

How Fidelity

— White Paper

Coup

Loss

Bank Half

Effectiveness of bank

Geneva Conf.

(Suppression of pessimism)



Haddis Smith — has he read all?



WNN

Kangas:

1. Tapes on mole ✓

2. Past accounts: West Coast? F?
CA?

3. News: does, book; questions... |

6. V? 38?

7. Note p. 329, Hearts

8. Tony

[5]

give (notebooks? ideas?

background does?

get: [copies of Shirley clearances.
personal file
RAND Shirley Manual

9. Stations vs. clearance

10. Bob, Marty I

N: B morale?

9. Trial strategy?

10. Congressional Conf? & petition

11. GET 10 ITEMS LIST (Did NYT know?)

Clan: Mostim tape

Look?

NYT?

W

30

Ellen cried - 115 years. I'd wouldn't say it
if not true..

Long - Pat hours (like Z); Tomorrow,
with her rap - VC Superstar.

(Pat switches channel: Transit strike

A bad joke — to have your gov
bring false charges against you,

The charge is false,

[May I make my statement:

I had thought

For Leonard:

If you're abusing the legal system — trying to
deter my further exposure of facts, by the

threat of false charges [since Congress has wisely
denied them on statutory basis for bringing charges.]
But Tony's indictment cancelled (+ this, kids)

(Research on Nissan: show best practices

[see Tony's agreement to tell all, under oath

[Can Ferguson get into this? Could Tony
tell him anything?

- Now that intent is a factor

Can we get more witnesses?

Heavier witnesses?

ECK; McN; Jack Anderson;

- Heavy local TV in LA.

- With Jang.

Mailings, ads.

(Unsell?)

- Defense Committee

Sources of "unindicted conspirators."

- What leeway on pleas, statements.

- I as co-counsel

- Address lawyers: get statements. Clark?

- ~~Edell~~ to

- Run down "rumors" on Gille — from officials.

Anticipation: New indict. (Who?)

false charges

(In addition to issues of: (a) War (b) Security/Disruption (c) Congress

New issue: Admin abuse of (corrupt for)
the legal system.

(Grand juries; indictments)

Pres. is using "charge of" "unindicted cocon."
as smokescreen; next, against Gille?
Just like rumors?

Hit tapes: AHA

News conf — Goodell

Princeton

Jay & us:
incredible private life — kept private
Diary.

How wants to seal off witnesses, money,
friends, support —

Need for demo. of support.

Before, you presented minimal case

based on facts — not in dispute.

Many could believe you would not pursue

case. (temporal then commitment.)

(Stanly: "Before, I said I didn't care about
Ellsberg but about the issues. That's changed
now.")

Now, the attitude of the Justice Dept. toward

justice, toward truth, toward the
legal system, is on trial.

I find myself shocked when I find
the Erie Branch knowingly making
false and unfounded statements in
court.

To Mässon? Does he believe charges?

If he says yes, I believe he is lying.

What is ^{or detriment, cost} penalty for bringing an indictment
that pros. knows is inadequately based,
or false?

Is suit possible?

Show that GJ can't be allowed to be tool
of pros - no independence, no other influence.
Put trust on lawyers who collaborate. SEE MEYER?!

- do you desparate — or is it just Nixon?

- Now, make sure trial is before election.

- Hyp: put Lysc on trial: war (crime)
money/direction
Congress
repression/oppression
~~OK~~
Legal

Not? corporations
life-style

right: demands for my help on other problems:
"solidarity."

Articles needed:

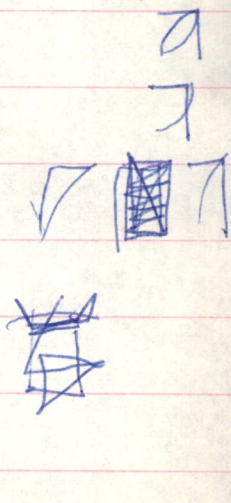
1. Legal/moral/political issues: Why this was
a good thing to do. *over*

2. Issues raised by case:

What if others...?

Security system...

(Why have I been talking...?)



B Motions

1. See Ransom hook
see Ransom

revisit

2. Goldberg; ... (does he really not have news?)
(on Committee: Goldberg, Moras, Gunning, Taylor
Clark? Deming, Bag,
Killer... Brown? signed,

3. Note practice on copying, carrying
within flow (1. ↑
to RAND (NSSM-1; JSCP!)

on ignoring negs: NOOIS; Eyes Only; Do Not
Copy

4. Get character — or use "character person"
— who is prepared to lose his character!
(Brodie ?!)

(side to 435 - from San Fran)

al

Jess Cook

Samuel

Tina

Allott

Barber

Blues

Baugin

Bennington

Marianne

Borkan

Juli Heyman

Gregg

EGC

Mangolis

McPhee

Stanley Miller

Mandelstam

Payton 703 973-5162

Blumstein

Ditchman

Johanson

Waistner

Bennington

Ross

Robertson

Riekin

Macrobly

(Sierants)

Wison

Shelik

Salmonson

See

Valeriano

Cook

More

al Ferguson

Allen Whiting

Sam Miller

Kathleen

Uliassi

Moreen Farn Rte 4

Bob Johnson

Bob Osgood

Kit Zumas

Zimmer

Wilkes

De Harris

Saithand

Davis

Rogers

Goodell:

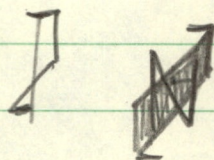
Exec has great power to conceal, to preclude people from knowing by facts about what they are doing, deciding, & have to justify & explain much less; depend to Congress

G:

How much is lost about world if people lack access to facts...

[Value of Free Speech, Inquiry, "Power"
— is absence of info, truth...
or if Gov controls info...

[in context of Surveillance: Gov knowledge of private facts, statements & as restraint against free speech



Hank - Sam Brown, Segal, Minkov, Branch
Spring - before too much time has elapsed

After being "converted," I will gradually
become "leading anti-war analyst." i not
as much sympathy.

- Attention on elections in ~~spring~~ fall.

Edelman

1969

March 3, - took 10 vols

Aug 28 - 8 vols

1969

oil
~~May~~ 19, 1971 - Princeton, McC

May '71 - plane trip

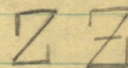
Oct 3 - I got Wheeler
69 report...

Oct 19 - I have
67-68 contacts

Oct 1 - I have

Carlton Ogden

Katzenberg



Manhattan Center on 34th

Stage Door, south side on 35th, W. of 5th Ave.

2:45

6:30 to Stanley's

Van Horn - find cut-off vs. demand of approx.

Straw - FEP

[To Senators - Have they read PP? Read it in the
offices. (CD for Civil Rights! and Philanthropy vs Civil Rights.
It's possible to feel as strongly about the bombing...) Philanthropy is
their officers

|| You don't have to be a Weatherman
to know it's raining bones in Locking.

We won't use bones - that's their method. So an lies.
So is secrecy.

Show them a different kind of courage - to tell self
from the truth + to tell the truth...

[

